

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS:	Yusheng Wu <i>et al.</i>	EXAMINER	Not Yet Assigned
APPLICATION No:	10/566,150	ART UNIT:	1614
INTERNATIONAL APPLICATION No:	PCT/US2004/24339	I.A. FILING DATE:	07/28/2004
FOR: PROCESS FOR THE SYNTHESIS OF BIARYL OXAZOLIDINONES			

MAIL STOP: PETITION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**SECOND PETITION UNDER 37 CFR 1.181
TO WITHDRAW HOLDING OF ABANDONMENT**

- 1) This paper is in response to the Notice of Abandonment mailed on November 7, 2008 and the Decision on Petition mailed February 12, 2009. Applicants re-petition for withdrawal of the Notice of Abandonment on the basis that the Notification of Missing Requirements, mailed on February 25, 2008 (“Notification of Missing Requirements”), was not received by Applicants.
- 2) Applicants first petition was dismissed in the Decision on Petition mailed February 12, 2009 for failure to include a statement that the docketing system is sufficiently reliable. This second petition now includes Applicants’ statement that Mintz Levin’s docketing system is sufficiently reliable (see item 6 below and Exhibit A)
- 3) The statements below are made as to the exact facts that are relied upon to establish the non-receipt of the Notification of Missing Requirements by the office of the Attorney of Record.

4) Applicants filed this application with the United States Patent and Trademark Office on January 27, 2006 as a National Phase Application of PCT/US2004/24339; International Filing Date, 07/28/2004. As listed on PAIR, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P. C. (“Mintz Levin”) is the attorney/agent of record with correspondence addressed to Mintz Levin at One Financial Center, Boston, MA 02111.

5) Applicants first became aware of the Notification of Missing Requirements on November 10, 2008, when Applicants received the Notification of Abandonment. Applicants reviewed their file for the instant application, including the file jacket; however, the Notification of Missing Requirements was not present.

6) A review of the Mintz Levin docketing system similarly does not provide any indication that the Notification of Missing Requirements was received. Applicants’ docketing system described herein is sufficiently reliable for recording an Office action received at One Financial Center, Boston, MA (Mintz Levin’s correspondence address of record with the USPTO). The practice in place at Mintz Levin at the time the Notification of Missing Requirements was mailed was to have Mintz Levin mail room date stamp and log all incoming USPTO correspondence. (See accompanying Declaration of Marianne Flynn, Director of IP Operations at Mintz Levin (Exhibit A)). A copy of Applicants’ incoming mail log from February 25, 2008 through May 31, 2008 is enclosed (Exhibit B). The mail log does not include the serial number or the attorney docket number associated with the instant application.

7) The practice in place at Mintz Levin additionally calls for matching USPTO correspondence with the appropriate patent file, and entering date-sensitive items such as Notifications of Missing Requirements and Office Actions into the master docket. Also included with this submission is a docket report for the above-identified application from February 25, 2008 through today (Exhibit C). The docket report does not list any actions being due.

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8) Based on the absence of evidence in the mail log or the docket report that the Notification of Missing Requirements was received, Applicants submit that the Notification of Missing Requirements was not received. Applicants request that the holding of abandonment be withdrawn and that the Notification of Missing Requirements be re-mailed as set forth in MPEP 711.03(c)A.

9) Under the requirements set forth in 37 C.F.R. § 1.181, the following documents are submitted in support of this Petition:

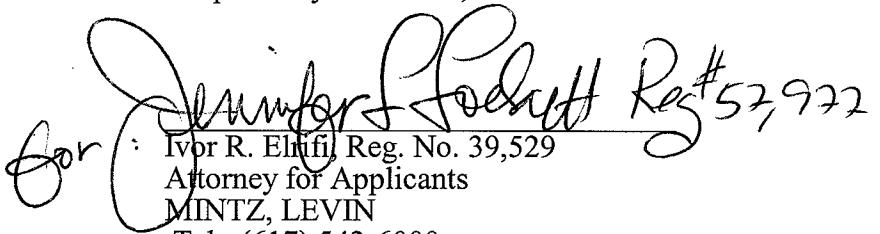
8.1. A declaration of Ms. Marianne Flynn, Manager of IP Operations for the Offices of the Attorneys of Record (Exhibit A);

8.2 A copy of the Mail log for the period (Exhibit B);

8.2 A copy of the docket record for 26505-526NATL, as required by MPEP § 711.03(c) Part II (Exhibit C); and

10) Applicants believe no fees are due with this Petition, however, the Commissioner is hereby authorized to charge any such fees, or to credit any overpayment, to Deposit Account No. 50-0311, Reference No. 26505-526NATL, Customer Number: 30623.

Respectfully submitted,


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Dated: March 20, 2009